

83-143

NO. \_\_\_\_\_

Office - Supreme Court, U.S.

FILED

JUL 18 1983

ALEXANDER L. STEVAS.  
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

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PHILIP E. SULLIVAN, D/B/A  
COLUMBIA POLY PACK COMPANY, PETITIONER

VS

TOWN OF VERNON, CONNECTICUT

---

PETITION FOR A WRIT OF CERTIORARI TO THE  
SUPREME COURT OF APPEALS OF THE STATE OF  
CONNECTICUT

---

PHILIP E. SULLIVAN, PETITIONER  
PO BOX 275, WEST HARTFORD, CONN. 06107  
203-522-4943

M. E. KALLET, ESQ., RESPONDENT  
351 MERLINE ROAD  
VERNON, CONNECTICUT 06066  
203-872-0574

JULY 12, 1983

QUESTIONS PRESENTED

Petitioner's "direct appeal" to the State of Connecticut Supreme Court of Appeals in pursuit of his only statutory right to appeal upon a matter of law provided by Connecticut Statute 52-265a for an immediate review of the Tolland Superior Court's acts denying petitioner substantive access to redress of grievance against government, contrary to his guaranteed rights of due process and equal protection of law, raises the following questions:

1. Whether the following acts of the Supreme Court of Appeals are consistent with Connecticut State Statute 52-265a, the due process clause and equal protection clause of the Fourteenth Amendment of the United States Constitution and Article First, Section 10 and Section 20 of the Connecticut Constitution:

- a. Refusing to exercise jurisdiction and consider petitioner's "direct appeal" grounded on untimely filing, when said "direct appeal" was timely filed

in accordance with all relevant state law and controlling precedent.

b. Subsequently returning to petitioner for improper form every pleading he attempted to file pursuant to his right under Connecticut State Statute 52-265a which specifically eliminates compliance by a party to any rules of form.

c. Rendering an order March 29, 1983 denying to dismiss petitioner's direct appeal while simultaneously rendering an order March 29, 1983 denying to consider petitioner's direct appeal.

d. Upon reconsideration, denying to certify petitioner's direct appeal by way of a letter from the chief clerk alleging a ruling by the Chief Justice May 13, 1983 ambiguously grounded in untimely filing and it not being of substantial public interest in which delay was working a substantial injustice, offering no basis in law or fact to support either conclusion.

e. Not providing petitioner with a copy of any official court document referred to in the chief clerk's May 13, 1983 letter and at all times ruling without reason.

2. Whether the Supreme Court of Appeals arbitrarily and capriciously abused its discretion in not granting certification of petitioner's direct appeal in view of:

a. Petitioner has no other statutory right of appeal available to him upon matters of LAW ONLY, other Connecticut statutes providing for appeal only upon matters of fact as petitioner brought to the court's attention in his June 7, 1983 notice to the court.

b. Such ruling is contrary to said court's controlling decisions granting certification.

c. Said "direct appeal" is of substantial public pecuniary, legal and lawful interest in which delay is working a substantial injustice

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NO. \_\_\_\_\_

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

---

Philip E. Sullivan, d/b/a Columbia Poly Pack Co.

PETITIONER

-vs-

Town of Vernon, Connecticut, RESPONDENT

---

PETITION FOR A WRIT OF CERTIORARI TO THE  
SUPREME COURT OF APPEALS OF THE STATE OF  
CONNECTICUT

---

This petitioner, PHILIP E. SULLIVAN, prays that a writ of certiorari issue to review all the orders and rulings of the Connecticut Supreme Court of Appeals, the last one rendered May 13, 1983 by way of a letter from the chief clerk of said court, without opinion, and to review the entire record of this petitioner's "direct appeal" to said court.



RULINGS BELOW

At no time have there been any opinions rendered by the upper or lower courts of Connecticut.

The original letter sent to petitioner January 27, 1983 denying to consider his "direct appeal" to the Connecticut Supreme Court of Appeals appears at Appendix A, *infra*, at page 21. The orders of the Supreme Court of Appeals of Connecticut denying to consider petitioner's "direct appeal" and simultaneously denying to dismiss petitioner's "direct appeal" appear at Appendix B1, *infra*, at page 22 and at Appendix B2, *infra*, at page 23, respectively. The letter from the chief clerk of the Supreme Court of Appeals alleging a ruling made by the Chief Justice May 13, 1983 appears at Appendix B3, *infra*, at page 24.

JURISDICTION TO REVIEW

The last act of the Connecticut Supreme Court of Appeals was a letter to petitioner from the chief clerk of said court alleging a ruling by the Chief Justice as of May 13, 1983. (See Appendix B3, *infra*, at page 24.) This petition for certiorari is filed less than 90 days from the aforesaid date. The jurisdiction of this court is invoked under the United States Constitution Article III, Section 2 which gives this court jurisdiction over all cases arising under the Constitution and laws of the United States. This court is invested with appellate jurisdiction in all such cases. Federal questions pertaining to petitioner's Fourteenth Amendment rights; i.e. due process of law and equal protection of law were raised by him initially in Tolland Superior Court by way of his following pleadings:

- 1) "Objection to court's ruling from the bench 10/18/82" (See Appendix D1, *infra*, page 26).
- 2) "Objection to Granting of Defendant's Motion to Strike 12/13/82" (See Appendix D2, *infra*, page 28.) .

- 3) "Motion to Set Aside 12/13/82 decision granting defendant's Motion to Strike" (See Appendix D3, *infra*, page 31)
- 4) "Objection to Motion for Judgment" (See Appendix D4, *infra*, pages 32-34.)

Said federal questions were also raised by petitioner in his "direct appeal", "Questions of Law" and subsequent pleadings in the Connecticut Appeals Court, as appears of record.

The jurisdiction of this court is also invoked under United States Code, Title 28, Section 1257 (3). Petitioner has been denied due process of law and equal protection of law by his lower and upper state courts. He is left with only a review and reversal of said denials by this jurisdiction.

When the effects of state courts actions are to deny rights subject to protection of the Fourteenth Amendment, it is the obligation of the United States Supreme Court to enforce the constitutional demands as held in Shelley vs Krammer, 334 US 30.

This petitioner has been denied his only right of appeal in his state court by the State of Connecticut Supreme Court of Appeals.

STATEMENT

This petitioner, PHILIP E. SULLIVAN, is a United States citizen pursuing his right to life, liberty and happiness by engaging in the trade of buying and selling plastic bags as a means of supporting himself and his family. When scattered Connecticut municipalities began to engage in the same trade, petitioner sought the services of an attorney-at-law to challenge said municipal usurpations of power, only to be repeatedly denied said services with the ability to pay not a reason for such denials.

Petitioner, therefore, was forced to research law and procedure eventually discovering his only standing to challenge various municipal usurpations of power lay within the common law writ of Quo Warranto as provided by way of a complaint in the nature of quo warranto filed pursuant to Connecticut State Statute 52-491 (See infra, page 12) with a hearing thereupon for municipal defendant to cite its authority for engaging in trade.

Accordingly, petitioner filed said complaint in Tolland Superior Court (See Appendix E, *infra*, page 35-38) and obtained a court order for a hearing in Quo Warranto (See Appendix F, *infra*, Pages 39-40).

For a summary of what transpired in the Tolland Superior Court, petitioner refers this court to the "Brief Summary" in his "Direct Appeal" filed with the Connecticut Supreme Court of Appeals (See APPENDIX G, *infra*, page 41).

As the result of being denied legal and lawful access to his court to redress grievance against government, strictly involving a matter of law, petitioner invoked his only statutory right to appeal upon matters other than fact as provided under Connecticut State Statute 52-265a (See *infra* page 11) for an immediate review upon matters of substantial public interest in which delay was working a substantial injustice; i.e., government engaging in trade and taxation as

a means of raising revenue and deprivations of due process and equal protection of law by Tolland Superior Court with no basis in law or fact other than an attorney's proven lie and an altered transcript of court proceedings to support judgment entered against this petitioner by said court.

Upon filing of said "direct appeal" to the Connecticut Supreme Court of Appeals, petitioner continued to experience the same due process and equal protection violations suffered by him in the Tolland Superior Court. The Appellate Court erroneously continued to hold petitioner's "direct appeal" was untimely filed when, in fact, it was timely filed in accordance with state law and controlling case law as brought forward by petitioner in his pleadings. (see APPENDIX H1, H2, H3, *infra*, pages 43, 46, 48, respectively). In addition, said court continued to return to petitioner every subsequent pleading he filed with the court under Connecticut State Statute 52-265a (*infra*, page 11) for

improper form and insufficient number of copies even though said statute specifically eliminates compliance by a party to any rules of form. It is upon said subsequent pleadings and in conjunction with his timely filed "direct appeal", all of which appear in the record (of which petitioner has requested a certified copy be sent to this jurisdiction) that petitioner raises the following questions:

QUESTIONS PRESENTED

Petitioner's "direct appeal" to the State of Connecticut Supreme Court of Appeals in pursuit of his only statutory right to appeal upon a matter of law provided by Connecticut Statute 52-265a for an immediate review of the Tolland Superior Court's acts denying petitioner substantive access to redress of grievance against government, contrary to

his guaranteed rights of due process and equal protection of law, raises the following questions:

1. Whether the following acts of the Supreme Court of Appeals are consistent with Connecticut State Statute 52-265a, the due process clause and equal protection clause of the Fourteenth Amendment of the United States Constitution and Article First, Section 10 and Section 20 of the Connecticut Constitution:

- a. Refusing to exercise jurisdiction and consider petitioner's "direct appeal" grounded on untimely filing, when said "direct appeal" was timely filed in accordance with all relevant state law and controlling precedent.

- b. Subsequently returning to petitioner for improper form every pleading he attempted to file pursuant to his right under Connecticut State Statute 52-265a which specifically eliminates compliance by a party to any rules of form.



c. Rendering an order March 29, 1983 denying to dismiss petitioner's direct appeal while simultaneously rendering an order March 29, 1983 denying to consider petitioner's direct appeal.

d. Upon reconsideration, denying to certify petitioner's direct appeal by way of a letter from the chief clerk alleging a ruling by the Chief Justice May 13, 1983 ambiguously grounded in untimely filing and it not being of substantial public interest in which delay was working a substantial injustice, offering no basis in law or fact to support either conclusion.

e. Not providing petitioner with a copy of any official court document referred to in the chief clerk's May 13, 1983 letter and at all times ruling without reason.

2. Whether the Supreme Court of Appeals arbitrarily and capriciously abused its discretion in not granting certification of petitioner's direct appeal in view of:

a. Petitioner has no other statutory right of appeal available to him upon matters of LAW ONLY, other Connecticut statutes providing for appeal only upon matters of fact as petitioner brought to the court's attention in his June 7, 1983 notice to the court.

- b. Such ruling is contrary to said court's controlling decisions granting certification.
- c. Said "direct appeal" is of substantial public pecuniary, legal and lawful interest in which delay is working a substantial injustice

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Fourteenth Amendment,

Due Process Clause & Equal Protection Clause:

...."nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

CONNECTICUT CONSTITUTION  
Article First, Section 10

"All courts shall be open, and every person for an injury done to him in his person, property or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay."

CONNECTICUT CONSTITUTION  
Article First, Section 20:

"No person shall be denied the equal protection of the law nor be subjected to the segregation or discrimination in the exercise or enjoyment of his civil or political rights because of religion, race, color, ancestry or national origin."

CONNECTICUT STATUTES INVOLVED

Connecticut State Statute 52-265a:

"Direct appeal on questions involving the public interest. (a) Notwithstanding the provisions of sections 52-264 and 52-265, any party to an action who is aggrieved by an order or decision of the superior court in an action which involves a matter of substantial public interest and in which delay may work a substantial injustice, may appeal under this section from the order or decision to the supreme court within two weeks from the date of the issuance of the order or decision. The appeal shall state the question of law on which it is based.

(b) The chief justice shall, within one week of receipt of the appeal, rule whether the issue involves a substantial public interest and whether delay may work a substantial injustice.

(c) Upon certification by the chief justice that a substantial public interest is involved and that delay may work a substantial injustice, the trial judge shall immediately transmit a certificate of his decision, together with a proper finding of fact, to the chief justice, who shall thereupon call a special session of the supreme court for the purpose of an immediate hearing upon the appeal.

(d) The chief justice may make orders to expedite such appeals, including orders specifying the manner in which the record on appeal may be prepared."

Connecticut State Statute 52-491:

"Complaint in the nature of quo warranto. When any person or corporation usurps the exercise of any office, franchise or jurisdiction, the superior court may proceed, on a complaint in the nature of a quo warranto, to punish such person or corporation for such usurpation, according to the course of the common law and may proceed therein and render judgment according to the course of the common law."

Connecticut State Statute 52-263:

"Appeals from superior court. Exceptions. Upon the trial of all matters of fact in any cause or action in the superior court, whether to the court or jury, or before any judge thereof when the jurisdiction of any action or proceeding is vested in him, if either party is aggrieved by the decision of the court or judge upon any question or questions of law arising in the trial, including the denial of a motion to set aside a verdict, he may appeal to the supreme court from the final judgment of the court or of such judge, or from the decision of the court granting a motion to set aside a verdict, except in small claims cases, which shall not be appealable, appeals within the jurisdiction of the appellate session of the superior court as provided in section 51-197d, administrative appeals as provided in section 51-197b, and except as otherwise provided by statute." (emphasis added)

REASONS FOR GRANTING WRIT

There is actual present and continuing injury to this petitioner consequent upon the ruling of the Chief Justice of the Connecticut Supreme Court of Appeals and it is submitted that the question is an urgent one entitled to preference. This consideration might be satisfied in a manner convenient to the court if this writ be granted and the case set for argument with a prayer by petitioner that the rules of form be liberalized.

Petitioner has been denied a meaningful hearing at a meaningful time by his lower state court. Petitioner has been denied access to his state appeals court. Petitioner's "direct appeal" pursuant to Connecticut State Statute 52-265a is the only statutory right of appeal available to him upon matters of law. The only other Connecticut Statute which provides for appeals is General Statute 52-263 which provides for appeal "upon the trial of all matters of fact in any court or action in the superior court....." (emphasis added) (supra, pg 12).

Therefore, petitioner invoked the only statutory right of appeal available to him in the state of Connecticut upon a matter of law of substantial public interest; i.e. his complaint in the nature of quo warranto and the court ordered hearing upon said complaint for municipal defendant's citation of authority to which petitioner was denied access by the lower court, only to be subsequently denied access by the upper court to his only right of review with no basis in law or fact in further contravention of his rights to due process of law and equal protection of law guaranteed him under the Fourteenth Amendment of the United States Constitution.

"The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of government is to afford that protection". Davis vs Passman, 442 US 242. This petitioner has been denied that protection by the upper and lower state courts of Connecticut. This petitioner has, in fact, been

victimized by the judicial branch of government for challenging a "brother" branch of government; i.e. municipal usurpations of power. When a citizen is victimized by one branch of government and turns to his judicial branch whose sole duty is to protect each citizen from said usurpations; but rather than protection, said citizen is further victimized by the judiciary in contravention to fundamental public rights; and the citizen gives its judicial branch every opportunity to undo its wrongs, but said branch demonstrates absolutely no intentions of rectifying said wrongs in a manner provided by law, the citizen, this petitioner, the public is left with no available means of redress or review for wrongs done by government usurpers of power; and you see a dangerous condition in the United States existing today...the deputies become greater than the principals; the servant is above the master; the representatives of the people are superior to the people themselves; and men acting by virtue of powers do not only what their powers do not

authorize, but what they forbid (FEDERALIST NO. 78).

As held by this court in Boddie v State of Connecticut, 401 US 220, "Perhaps no characteristic of an organized and cohesive society is more fundamental than its erection and enforcement of a system of rules defining the various rights and duties of its members, enabling them to govern their affairs and definitively settle their differences in an orderly, predictable manner. Without such a "legal system", social organization and cohesion are virtually impossible; with the ability to seek regularized resolution of conflicts individuals are capable of interdependent action that enables them to strive for achievements without the anxieties that would beset them in a disorganized society. Put more succinctly, it is this injection of the rule of law that allows society to reap the benefits of rejecting what political theorists call the "state of nature".



American society, of course, bottoms' its systematic definition of individual rights and duties, as well as its machinery for dispute settlement, not on custom or the will of strategically placed individuals, but on the common-law model. It is to courts, or other quasi-judicial official bodies, that we ultimately look for the implementation of a regularized, orderly process of dispute settlement. Within this framework, those who wrote our original Constitution, in the Fifth Amendment, and later those who drafted the Fourteenth Amendment recognized the centrality of the concept of due process in the operation of this system. Without this guarantee that one may not be deprived of his rights, neither liberty nor property, without due process of law, the State's monopoly over techniques for binding conflict resolution could hardly be said to be acceptable under our scheme of things. Only by providing that the social enforcement mechanism must function strictly within these bounds can we hope to maintain an ordered society that is also just. . . .

What the Constitution does require is 'an opportunity\*\*\*\*granted at a meaningful time and in a meaningful manner.' Armstrong v Manzo 389 US 545, 522...' for (a) hearing appropriate to the nature of the case', Mullane v Central Hanover Bank & Trust Co., supra, 339 US at 313...."(as held by this court in Boddie v State of Connecticut, 401 US 220.)

The Petitioner brought a matter of law before the Connecticut Supreme Court of Appeals. Such issues as government engaging in trade and taxation; denied access to his state court to redress grievance against government; altered transcripts of court proceedings, an attorney's proven false case citations being upheld by a court are all acts violating fundamental public rights and values in our American Constitutional System of vital public interest demanding review under Connecticut State Statute 52-265a. The injuries to petitioner and the public in such matters are equally real and of substantial public interest. The damage to petitioner is irreparably compounded by his state

appeals court refusing to take jurisdiction where it must using a non-existent time factor error as basis for its denials, unable to offer any fact or law in support of such denials. Where is the exercise of judicial discretion in the absence of any fact or law to support its acts? Discretion must be guided by law upon a certain statement of facts and then decided in accordance with the law. It is not the indulgence of judicial whims as evidenced by the lower and upper state courts' acts on behalf of this petitioner (who is experiencing the same obstructions in another quo warranto action against another Connecticut municipality in the Superior Courts of Connecticut). Apparently the State of Connecticut judicial branch feels it can disregard the law and the Constitution it is sworn to uphold and inflict injuries upon citizens who seek redress of grievances in accordance with their Constitution and the laws. How can the United States survive with such acts? It is impossible. It creates the condition of chaos evident everywhere in America today.

If this court refuses to grant certiorari petitioner is left without an appellate review at his state level and his federal level. He will have, in fact, been denied access to his courts at every level. It is a frightening reality.

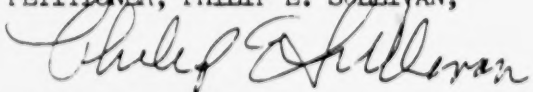
Petitioner's direct appeal under Connecticut State Statute 52-265a to his state appeals court is a novel one in the state of Connecticut with no controlling precedent for review upon such matters of substantial public interest in which delay is continuing to work a substantial injustice to petitioner and the public. Trade or taxation....by which means shall government raise revenues in the state of Connecticut? Petitioner has been denied his only right to determine such a matter of law and he has been denied his only right to appeal a matter of law in the state of Connecticut.

CONCLUSION

The decision below is palpably erroneous for the reasons set forth above and petitioner, PHILIP E. SULLIVAN, respectfully submits that this petition for certiorari should be granted in view of the deprivations of his Fourteenth Amendment rights to due process of law and equal protection of law. To deny this writ of certiorari would be to leave a United States citizen with no means of an appellate review and with no means to redress grievance against government usurpations of power contrary to the fundamental rights and values of our American Constitutional system.

July 12, 1983

RESPECTFULLY SUBMITTED BY THE  
PETITIONER, PHILIP E. SULLIVAN,



PHILIP E. SULLIVAN  
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(APPENDIX A)

Supreme Court of Connecticut  
Donald H. Dowling  
Reporter of Judicial Decisions

January 27, 1983

To: Philip E. Sullivan

Mitchel E. Kallet, Esq.

Re: Sullivan vs Vernon

Gentlemen:

Please be advised that because the plaintiff's appeal from the decision of the trial court in the above-captioned matter was not filed within two weeks of "the date of the issuance of....such decision," Chief Justice Speziale has declined to rule on the plaintiff's request made pursuant to General Statutes Section 52-265a.

Very Truly Yours,

Donald H. Dowling

(APPENDIX B4)

NO. 11955

SUPREME COURT  
STATE OF CONNECTICUT

Philip E. Sullivan

MARCH 29, 1983

vs

Town of Vernon

ORDER

THE Motion to Consider Appellant-Plaintiff's  
Petition for Direct Appeal HAVING BEEN PRESENTED  
TO THE COURT, IT IS HEREBY ORDERED DENIED.

BY THE COURT

Donald H. Dowling

CHIEF CLERK

Notice Sent  
3/30/83

(APPENDIX B 2)

NO.11955

Philip E. Sullivan  
vs  
Town of Vernon

SUPREME COURT  
STATE OF CONNECTICUT  
March 29, 1983

ORDER

THE defendant, Town of Vernon's Motion to  
Dismiss and/or to Determine Status HAVING  
BEEN PRESENTED TO THE COURT, IT IS HEREBY  
ORDERED DENIED.

BY THE COURT,  
Donald H. Dowling  
CHIEF CLERK

Notice Sent  
3/30/83



(APPENDIX B3)

State of Connecticut  
Office for Appeals  
Donald H. Dowling  
Chief Clerk

May 13, 1983

Re: Sullivan vs Vernon

Dear Mr. Sullivan:

Please be advised that Chief Justice Speziale, having treated the "Notice by Plaintiff," filed on April 18, 1983, as a request for reconsideration of the plaintiff's "Direct Appeal," filed on 25 January 1983 pursuant to General Statutes Section 52-265a, this date denied certification of "Direct Appeal" on the ground that it is untimely and does not involve "a matter of substantial public interest and in which delay may work a substantial injustice."

That ruling does not affect your pending appeal.

Very Truly Yours,

Donald H. Dowling

cc: Mitchell E. Kallet, Esq.

(Appendix C)

STATE OF CONNECTICUT

NO: 2 86 48

Philip E. Sullivan, d/b/a  
Columbia Poly Pack Company  
of West Hartford

SUPERIOR COURT

JUDICIAL DISTRICT  
OF TOLLAND

vs

Town of Vernon

JANUARY 10, 1983

Present: Honorable Eugene T. Kelly, Judge

JUDGMENT

This action, by writ and complaint, claiming equitable and other relief came to this Court on September 30, 1982 and thence to December 13, 1982 when the Court granted the Motion to Strike filed by the defendant on October 18, 1982 and thence to the present time when the Court granted the Motion for Judgment filed by the defendant on December 31, 1982.

Whereupon it is adjudged that the defendant recover of the plaintiff costs, taxed at \$

BY THE COURT

Elaine Morosek

CHIEF CLERK

cc: January 11, 1983  
P.E. Sullivan, Pro Se  
Flaherty, M K & M

(APPENDIX D1)

0028648

SUPERIOR COURT

Philip E. Sullivan, d/b/a J.D. of Tolland

vs

Town of Vernon

October 22, 1982

OBJECTION TO COURT'S RULING FROM THE  
BENCH OCTOBER 18, 1982

Plaintiff and defendant appeared for plaintiff's duly ordered hearing on plaintiff's complaint in the nature of quo warranto October 18, 1982 at 10:00am.

The court blatantly refused to conduct the hearing according to ACCEPTED Connecticut practice and the law as provided by Connecticut State Statute 52-491 and Stephenson Civil Procedure on Quo Warranto, Section 260, and Connecticut Practice Book of Forms, and as provided on the court's NOTICE & ORDER.

The court issued a ruling completely irrelevant and incoherent to the PURPOSE AND INTENT of the hearing calling it "temporary relief denied" when plaintiff never asked for such relief. The court further REFUSED to have defendant cite its author-

(APPENDIX D1 CONTINUED),...

ity for usurping its municipal powers which was the entire PURPOSE, NATURE AND INTENT OF said hearing.

The court is in serious legal and lawful error and in violation of plaintiff's right to due process and equal protection of the law by constructing a denial of access to plaintiff in substance; said substance of which is totally irreconcilably in conflict with above mentioned procedure and law.

BY THE PLAINTIFF,

PHILIP E. SULLIVAN

(APPENDIX D2)

0028648

SUPERIOR COURT

Philip E. Sullivan

J.D. of TOLLAND

vs

Town of Vernon

December 28, 1982

OBJECTION TO GRANTING OF  
DEFENDANT'S MOTION TO STRIKE 12/13/82

Plaintiff objects and claims as error the court granting defendant's Motion to Strike.

1. The hearing held 12/13/82 was status quo 10/18/82.

2. On 10/18/82 the court denied to hear defendant's surprise motions to strike and dismiss as being untimely and not on short calendar.

3. The court, therefore, rules defendant has waived its right to any motions to strike or dismiss.

4. On 12/13/82, however, this same court, above plaintiff's objections, heard defendant's motion to strike even though the court had already ruled on 10/18/82 it would not hear said motion.

(APPENDIX D2 CONTINUED).....

5. This court granted defendant's motion to strike without any memorandum of decision or any lawful findings to support granting said motion.

6. For this court to hear defendant's motion to strike once it had denied said motion's standing and to then grant said motion is NONSENSE and ERROR and an attempt to subvert justice.

7. For this court to grant defendant's motion to strike in view of defendant's erroneous false case citation as enumerated in its memorandum of law (State ex rel Martin v Maxim Pepin, Jr. 14 CS 225) is ERROR.

8. For this court to grant said motion is in contravention to Connecticut State Statute 52-491 which provides "When any person or CORPORATION usurps the exercise of any office, FRANCHISE or JURISDICTION the superior court may proceed on a complaint in the nature of quo warranto..."(emphasis added, and is ERROR.

9. For this court to deny to hear defendant's citation of authority for engaging in trade when

(APPENDIX D2 CONTINUED)....

said citation of authority is properly provided for by Connecticut practice and law pursuant to Connecticut State Statute 52-491, Stephenson on Specialized Procedures, Section 260, Connecticut Practice Book of forms and the court's Order for Hearing and Notice is ERROR.

10. The record CLEARLY SHOWS this court's wanton denial of access in substance and equal protection of the laws to plaintiff in obvious total irreconcilable conflict with its duty to uphold the United States and Connecticut Constitutions, thus causing plaintiff irreparable harm for which he holds this court and the state of Connecticut liable.

11. There is no law, equity, reason, good faith or justice in any of this court's actions. This court is condoning and participating in blatant violations of citizen's guaranteed constitutional rights. Such behavior is not only shocking but damaging.

BY THE PLAINTIFF,  
Philip E. Sullivan

(APPENDIX D3)

0028648S

SUPERIOR COURT

Philip E. Sullivan

J.D. of Tolland

vs

Town of Vernon

December 28, 1983

MOTION TO SET ASIDE 12/13/82 DECISION  
GRANTING DEFENDANT'S MOTION TO STRIKE

Plaintiff hereby moves to have the court set aside its 12/13/82 decision granting defendant's motion to strike for the reasons enumerated in his objection to said decision dated December 28, 1982. To not set aside said decision is to further violate plaintiff's federal and state constitutional guarantees causing further damage.

BY THE PLAINTIFF,  
Philip E. Sullivan

Order 1/10/83

after hearing, the court ordered that the foregoing motion be denied. By the Court (Kelly J.)



(APPENDIX D4)

0028648

SUPERIOR COURT

Philip E. Sullivan, d/b/a

J.D. OF  
TOLLAND

vs

Town of Vernon

January 5, 1983

OBJECTION TO MOTION FOR JUDGMENT

Plaintiff objects to defendant's motion for judgment and says:

1. Pursuant to Practice Book Section 157, a motion for judgment can only be granted for failure to plead. Plaintiff filed an Objection to Granting of Defendant's Motion to Strike 12/13/82 and a Motion to Set Aside 12/13/82 Decision Granting Defendant's Motion to Strike. Where, then, is the failure to plead?

2. Defendant's motion pursuant to Practice Book Section 157 is legally insufficient in a quo warranto action. Connecticut Civil Procedure by Professor Stephenson, Section 260 on Specialized Procedures points to State ex rel Hosford v Kennedy, 69 Conn. 277 where the court held "An information in the nature of

## APPENDIX D4 CONTINUED.....

quo warranto must proceed 'according to the course of the common law.' It is not a CIVIL ACTION within the meaning of the Practice Act providing 'one form of civil action' and prescribing the pleadings."

(emphasis added). Accordingly, defendant's motion for judgment is inapplicable and irrelevant to this action.

3. In addition, defendant never having cited its authority for engaging in trade at a court ordered hearing designated specifically for said citation, there is NOTHING to base a judgment on.

In conclusion, the obvious obstruction of justice being practiced by both attorney and judge in this action against a pro se plaintiff is abetting further obstruction of justice, upon further error, upon further denial of fundamental fairness, upon further denial of fundamental public rights.

When the lies are stripped from the record there remains an act to deny plaintiff access to justice in substance, short of physically forcing him from the courthouse. One look at the record, however, demands a second and a third look. For one cannot believe this

(APPENDIX D4 CONTINUED)....

court and this attorney's conversions of one thing into another, disregarding previous rulings, tampering with transcripts, invalidating a Connecticut State Statute, etc. etc. Such obvious acts of obstruction cannot be defended against with truth and reason when the actors' only code is: Thou-Shall Get Away with Lies, For It Is As Good As Telling The Truth.

Accordingly, this citizen will not appear before this court at any further date, including 1/10/83 short calandar. He has no intention of being further damaged by this court.

BY THE PLAINTIFF PRO SE

Philip E. Sullivan

(APPENDIX E)

Philip E. Sullivan

SUPERIOR COURT

vs

JUDICIAL DISTRICT  
OF TOLLAND

Town of Vernon

September 13, 1982

COMPLAINT IN THE NATURE OF QUO WARRANTO

To the Superior Court now in session in and for the county of Tolland, Connecticut comes Philip E. Sullivan of Farmington, Connecticut who brings this action of QUO WARRANTO under the provisions of Connecticut State Statute 52-491 ("When any person or corporation usurps the exercise of any office, franchise or jurisdiction, the superior court may proceed on a complaint in the nature of a quo warranto, to punish such person or corporation for such usurpation, according to the course of the common law...") and  
COMPLAINS AND SAYS:

1. The town of Vernon, Connecticut is a municipal corporation, a creation of the state of Connecticut, and is engaged in the commercial business activity of selling plastic bags to the consumer market. The town

(APPENDIX E CONTINUED)....

of Vernon has engaged in said activity for a long time up to the present.

2. The town of Vernon's existence in the business of selling plastic bags (hereinafter referred to as said behavior) is illegal and unlawful. The said behavior is an assumption of power that a municipal corporation is not at (the) liberty or stated authority to assume unto itself. The Connecticut Supreme Court stated in City Council of the City of West Haven v Jon Hall, December Term, 1979 (VOL XLI NO. 42, April 15, 1980 Conn. Law Journal) "We have long recognized that as a creation of the state, a municipality has no inherent powers of its own" and "the only powers a municipal corporation has are those which are expressly granted to it by the state". The said behavior by Vernon is not one of the powers conferred to municipalities by Connecticut State Statutes 7-194 (1-59) and therefore said behavior is unwarranted and illegal. The said behavior is an usurpation of Vernon's powers as conferred by said statute.

3. Plastic bags are made readily available in Vernon

(APPENDIX E CONTINUED)...

by privately owned businesses and have been available long before Vernon commenced said behavior.

4. Philip E. Sullivan (hereinafter referred to as I) is a citizen of the United States and Connecticut and is at liberty to engage in the business of selling plastic bags and does so as endowed to him by the Declaration of Independence, the U.S. Constitution and the Connecticut Constitution. Said behavior by Vernon, however, is unwarranted and therefore unlawful and illegally interfering with my business which is my sole support. Said behavior by Vernon is unwarranted and therefore unlawful and is illegally competing with my business. Said behavior by Vernon is unwarranted and therefore unlawful and illegally damaging to my business. Said behavior by Vernon is unwarranted and therefore unlawful and illegally threatening to the survival of my business.

5. I, therefore, pray the court order Vernon to answer by what warrant, by what Connecticut Statutory authority it claims to exist in the commercial business activity of selling plastic bags.

(APPENDIX E CONTINUED).....

6. I pray the court order Vernon to stop said behavior immediately upon its failure to show by what warrant it engaged in said behavior.

7. I further pray the court punish Vernon to the maximum according to the common law for its usurpation of authority.

8. In addition, I pray the court order Vernon to pay all costs as per Connecticut State Statute 52-492, including all my costs and fees incurred upon me to bring this action to protect my livelihood which is of honorable calling and my inalienable right.

Philip E. Sullivan  
d/b/a Columbia Poly Pack Co.

SUBSCRIBED AND SWORN

(APPENDIX F)

Philip E. Sullivan

SUPERIOR COURT

VS

Judicial District  
of Tolland

TOWN of Vernon

September 13, 1982

ORDER FOR HEARING AND NOTICE

By authority of the state of Connecticut you are hereby commanded to summon the town of Vernon, Town Clerk Henry Butler, Vernon, Connecticut to appear before the Superior Court in and for the judicial district of Tolland at Court Street, Vernon, Connecticut on OCTOBER 18, 1982 at 10:00 a.m. THEN AND THERE TO ANSWER unto the complaint of Philip E. Sullivan, d/b/a Columbia Poly Pack Company, 37 Valley View Drive, Farmington, Connecticut in the nature of a quo warranto THEN AND THERE to show by what right or warrant, IF ANY IT HAS, to engage in the commercial activity of buying and selling plastic bags and to exercise and enjoy the rights, powers and privileges thereof reserved by the



(APPENDIX F CONTINUED).....

people unto themselves, by leaving with the town of Vernon a true and attested copy of the foregoing complaint and of this order on or before OCTOBER 12, 1982.

HEREOF fail not, but due service and return make.

BY THE COURT,

JUDGE KELLY

(APPENDIX G)

Direct Appeal (relevant part)  
to Connecticut Supreme Court of Appeals

BRIEF SUMMARY

1. Pursuant to Connecticut State Statute 52-491: appellant-plaintiff brought a complaint in the nature of quo warranto against appellee-defendant (hereinafter called defendant). Said complaint was grounded in defendant's usurpation of governmental powers by engaging in trade.
2. A quo warranto hearing was applied for by appellant-plaintiff (hereinafter called plaintiff) and ordered by the court.
3. Said hearing was scheduled to be heard more than 30 days after notice of same was served upon defendant.
4. The time interval between return of process to Tolland Superior Court and the scheduled hearing gave defendant ample time to move on plaintiff's complaint.
5. Defendant did not move.

6. October 18, 1982, day of the hearing, defendant moved at the bar to dismiss and strike plaintiff's complaint.

7. The court would not allow defendant's untimely motions to be heard as they were not in the file.

8. The way was then cleared for the quo warranto hearing to go forward, as ordered, for defendant to cite its authority to engage in trade.

9. However, "something" then happened above plaintiff's objection, the result of which was that the quo warranto hearing did not take place (See Exhibit A Attached Hereto), raising one question—WHY, why did the court do what it did? It is beyond reason. It is beyond the law.

10. Plaintiff filed an objection to above mentioned "something" and moved that the quo warranto hearing not having taken place be reassigned status quo October 18, 1982.

11. Defendant made no motions or objections.

12. Defendant and plaintiff appeared again before Judge Kelly December 13, 1982 at Judge Kelly's verbal request.

13. Above plaintiff's objections, the court then allowed defendant to argue its motion to strike which the previously (10/18/82) had denied defendant to move on thus rendering said motion "moot".

14. The court, however, granted defendant's motion to strike above plaintiff's objections, issuing no memorandum of decision.

15. Plaintiff moved to set aside the court's ruling.

16. Defendant moved for judgment to which plaintiff objected.

17. The court denied plaintiff's motion to set aside and rendered judgment for the defendant January 10, 1983.

END RELEVANT PORTION

(APPENDIX H1)

Civil#0028648

DIRECT APPEAL PETITION

Philip E. Sullivan  
Appellant-Plaintiff  
VS

TO: SUPREME COURT APPEALS

From: Tolland Superior  
Court

Town of Vernon  
Appellee-Defendant

January 28, 1983

MOTION TO CONSIDER APPELLANT-PLAINTIFF'S  
PETITION FOR DIRECT APPEAL

Appellant-Plaintiff in consideration of the Reporter of Judicial Decisions, Attorney Dowling's January 27, 1983 notice that plaintiff's "request made pursuant to General Statutes 52-265a...was not filed within two weeks of the date of the issuance of...such decision'", hereby submits said notice is UNACCEPTABLE as being contrary to accepted practice and brings forward the following date to the court's attention:

1. Attached hereto is a copy of the lower court's January 10, 1983 judgment with the clerk's notice to plaintiff and defendant of the rendition of said judgment "issued" January 11, 1983.

2. If the judgment is entered on one date, but

## (APPENDIX H1 CONTINUED)

the clerk neglects to issue notice of it to the parties until later, the later date starts the appeal period.

Tilo Co., vs Fishman (1972) 164 Conn 212, 214. This court also held in Spicer Fuel Co. v. Padgett, 1 Conn. Cir. Ct. 269, "In the case at bar, the critical date is the date of issuance of notice of the judgment.. 'Issuance means 'issuing' or giving out...The mailing out of the judgment file was the issuance of the notice of the rendition of the judgment".

3. Plaintiff's petition for direct appeal was mailed to the trial court and defense counsel January 24, 1983 and personally hand delivered to Attorney Dowling and the Supreme Court at the Supreme Court Clerk's Office January 25, 1983.

4. Accordingly, the "issuance" of the court's judgment was legally January 11, 1983. The mailing and hand delivery of plaintiff's petition for direct appeal was within thirteen days and fourteen days respectively.

5. Plaintiff, therefore, is precisely within

the statutory time requirements of Connecticut State Statute 52-265a and his petition is neither void nor voidable on such grounds.

6. However, if the Supreme Court of Appeals chooses to dismiss plaintiff's petition on its own motion, not having been attached by appellee-defendant and without consideration of the substance of said petition, plaintiff simply ask for an order to that effect as attached hereto.

7. Plaintiff again reminds the court the public interests at issue in his petition for direct appeal ARE FUNDAMENTAL PUBLIC RIGHTS OF DUE COURSE OF LAW AND EQUAL PROTECTION OF LAW, as well as the questions of government's SURRENDER of its taxation practices in favor of ENGAGING IN TRADE. If the state of Connecticut prefers trade to taxation, plaintiff knows of not one Connecticut citizen who would not be immediately effected.

END RELEVANT PORTION

(APPENDIX H2)

No11955

SUPREME COURT  
OF APPEALS

Philip E. Sullivan

vs

Town of Vernon

April 6, 1983

MOTION TO RECONSIDER

Plaintiff moves the court reconsider its 3/29/83 denial to consider plaintiff's petition for direct appeal for the following reasons:

1. Plaintiff's petition for direct appeal was clearly filed within 14 days of the "issuance of" Judge Kelly's decision in accordance with this court's own prior decisions regarding the act of "issuance" as previously brought forward by plaintiff as appears of record.

2. The term "issue" in Black's Law Dictionary, Revised Fourth Edition is defined "to send forth...to send out officially...to deliver...A writ is 'issued' when it is delivered to an officer, with the intent to have it served...130 U.S.693". The court clerk officially sent out Judge Kelly's decision on January 11, 1983



and plaintiff's petition for direct appeal was filed January 25, 1983; i.e. within 14 days of "issuance of". There is a perceptible intervention between the act of "rendering a decision, and the act of "issuance of" a decision. State Statute 52-265a requires filing from date of "issuance of" and not from date of "rendition" as commanded by other state statutes (See State Statutes 52-2781 (b) and 52-582).

3. This court acknowledged the timely filing of plaintiff's petition for direct appeal when it subsequently requested from plaintiff a list of exhibits, transcripts, briefs and appendices after plaintiff brought forward the court's time factor error (SEE EXHIBIT A attached to plaintiff's April 6, 1983 "Request for Ruling on Plaintiff's Petition for Direct Appeal" filed herewith). Yet, a ruling whether the issue on direct appeal involves a substantial public interest and whether delay may work a substantial injustice has yet to be rendered by the Chief Justice, as commanded by Connecticut State Statute 52-265a.

END RELEVANT PORTION.

(APPENDIX H3)

NO. 11955

SUPREME COURT OF APPEALS  
State of Connecticut

Philip E. Sullivan

vs

Town of Vernon

April 16, 1983

NOTICE BY THE PLAINTIFF

(page 2)

.....how can 14 days be called 15 days if not a lie,  
in view of the judicially and commonly know fact that  
courts "of record" do not become courts of record un-  
til the clerks of court perform specific duties as  
enumerated in Connecticut State Statute 51-53..."When-  
ever any court or the judge of any court acting in  
any matter coming before him as such judge, has made  
or rendered any decision, order decree,...unless the  
same is made or rendered in the presence of counsel in  
such matter, the clerk of such court shall forthwith  
notify such counsel, in writing, of such decision,

order..and in case of appellate proceedings thereon, the time limited by law for commencing such proceedings shall date from the time when such notice is issued by such clerk." It is clear the law separates the act of rendering and the act of issuing. The act of rendering a decision is performed by a judge. The act of issuing a decision is performed by a clerk. The record in this action is clear that plaintiff filed his petition for direct appeal to this court within 14 days from the "issuance of such order or decision", as commanded by Connecticut Statute Statute 52-265a, under which plaintiff brought his petition for direct appeal.

END RELEVANT PORTION